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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,058	12/11/2003	Noel G. Smith	Erv Smith	2499
26365	7590	10/06/2005		
ANTHONY J. BOURGET P.O. BOX 81 EAU CLAIRE, WI 54702-0081			EXAMINER TADESSE, YEWEBDAR T	
			ART UNIT	PAPER NUMBER

1734

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/735,058

Applicant(s)

SMITH, NOEL G.

Examiner

Yewebdar T. Tadesse

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-86 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-9, drawn to a panel, classified in class 29, subclass 284.
  - II. Claims 10-17, drawn to a wall or ceiling, classified in class 29, subclass 284.
  - III. Claims 18-28, drawn to an enclosure, classified in class 29, subclass 284.
  - IV. Claims 29-71 and 81-82, drawn to 118, classified in class 118, subclass 326.
  - V. Claims 72-75, 77 and 79, drawn to a method of assembling an enclosure, classified in class 29, subclass 428.
  - VI. Claims 76 and 80, drawn to a method of assembling a spray booth, classified in class 29, subclass 428.
  - VII. Claim 78, drawn to a method of assembling a spray booth, classified in class 29, subclass 428.
  - VIII. Claims 81-82, drawn to a self-supporting enclosure, classified in class 118, subclass 326.
  - IX. Claim 83, drawn to a modular panel, classified in class 29, subclass 284.
  - X. Claims 84-86, drawn to a corner post, classified in class 29, subclass 284.

The inventions are distinct, each from the other because of the following reasons:

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2. Inventions (V-VII) and (I-IV & VIII-X) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used as a puzzle assembling game or the enclosure can be used to house animals instead of a spray booth.

3. The inventions are distinct, each from the other because of the following reasons: Groups III, IV and VIII are directed to distinct apparatus claims where patentability is based on different combinations of features recited in the independent claims of each group as noted above. Equally important, each of these groups can effectively function as an enclosure unit without requiring the features of the other groups.

4. The inventions are distinct, each from the other because of the following reasons: Groups V- VII are directed to distinct method claims where patentability is based on different combinations of features recited in the independent claims of each group as noted above. Equally important, each of these groups can effectively function as a method of assembling an enclosure unit without requiring the features of the other groups.

5. Inventions (III, IV & VIII) and (I-II, IX & X) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the

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combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because for instance the enclosure of the spray booth is not required to have a corner post including at least two post walls forming L-shaped configuration. The subcombination has separate utility such as supporting a board.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

8. The Restriction/election requirement is sent in writing due to the complexity of the requirement.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
YTT

  
CHRIS FIORILLA  
SUPERVISORY PATENT EXAMINER  
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